

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the application of)
CMC TELECOM, INC., for a license to provide)
basic local exchange service in Ameritech)
Michigan exchanges.)
_____)
Case No. U-11425

In the matter of the application of)
1-800-RECONEX, INC., f/k/a STERLING INTER-)
NATIONAL FUNDING, INC., for the issuance of)
A license to provide local exchange)
Telecommunications service on a resold basis)
in the current exchanges of Ameritech Michigan)
and GTE North Incorporated.)
_____)
Case No. U-11700

In the matter of the application of)
ZENK GROUP, LTD., d/b/a PLANET ACCESS,)
for the issuance of a license to provide local)
exchange services in the LATA exchanges)
currently served by Ameritech Michigan.)
_____)
Case No. U-12057

In the matter of the application of)
AMERICAN FIBER NETWORK, INC., for a)
license to provide basic local exchange service in)
all exchanges and zones currently served by)
Ameritech Michigan, GTE North Incorporated,)
And Contel of the South, Inc., d/b/a GTE)
Systems of Michigan.)
_____)
Case No. U-12469

In the matter of the application of)
CALL GIANT INC., f/k/a BELL CONNECT, INC.,)
for a license to provide basic local exchange)
service.)
_____)
Case No. U-12742

In the matter of the application of)
UNIVERSAL TELECOM, INC., for a license to)
provide basic local exchange service as a)
competitive local exchange carrier in the zone)
and exchange areas throughout the state of)
Michigan presently served by Verizon North Inc.,)
Contel of the South, Inc., d/b/a Verizon North)
Systems, Michigan Bell Telephone Company,)
d/b/a Ameritech Michigan, CenturyTel of)
Michigan, Inc., CenturyTel Midwest – Michigan,)
Inc., CenturyTel of Upper Michigan, Inc.,)
CenturyTel of Northern Michigan, Inc., TDS)
Telecom/Island Telephone Company, TDS)
Telecom/Shiawassee Telephone Company, TDS)
Telecom/Chatham Telephone Company, TDS)
Telecom/Wolverine Telephone Company, TDS)
Telecom/Communication Corporation of)
Michigan, and Frontier Communications of)
Michigan, Inc.)
_____)

Case No. U-13468

In the matter of the application of)
TROPHY TECHNOLOGIES, INC., for a license)
To provide basic local exchange service in all)
Michigan exchanges served by the incumbent)
local exchange carriers Ameritech Michigan, an)
affiliate of SBC Communications, Verizon North)
Inc., formerly GTE North, and Verizon North)
Systems, formerly GTE Systems of Michigan.)
_____)

Case No. U-13538

In the matter of the application of **PHONECO,**)
L.P., for a license to provide resold and)
facilities-based switched and dedicated local)
exchange telecommunications services)
throughout the state of Michigan in the exchange)
areas of Ameritech Michigan, and Verizon North)
Inc., and Verizon North Systems.)
_____)

Case No. U-13669

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In the matter of the application of)
SPECIALIZED SERVICES, INC., d/b/a SSI)
AFFINITY, for a license to provide basic local)
exchange service in all the zone and exchange)
areas in Michigan presently served by SBC)
Ameritech Michigan and Verizon North Inc. and)
Contel of the South, Inc., d/b/a Verizon North)
Systems.)
_____)

Case No. U-13757

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In the matter of the application of **GVC**)
NETWORKS, LLC, for a license to provide)
basic local exchange service throughout the state)
of Michigan in the zone and exchange areas)
served by Verizon North Inc. and Contel of the)
South, Inc.,d/b/a Verizon North Systems, and)
SBC Michigan.)
_____)

Case No. U-13828

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In the matter of the application of **GLOBAL**)
TELDATA II, LLC, for a license to provide basic)
local exchange service in the areas currently)
served by SBC Michigan and Verizon North Inc.)
and Contel of the South, Inc., d/b/a Verizon)
North Systems.)
_____)

Case No. U-13957

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In the matter of the application of **CMC**)
TELECOM, INC. for a license to provide basic)
local exchange service in Ameritech Michigan)
exchanges.)
_____)

Case No. U-14113

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In the matter of the application of **EMPIRE ONE**)
TELECOMMUNICATIONS, INC., for a license)
to provide basic local exchange service)
in the areas currently served by SBC Michigan.)
_____)

Case No. U-14364

In the matter of the application of **AIRDIS, LLC,**)
d/b/a AIRDIS TELECOM, for a license to provide)
basic local exchange service in the zones and)
exchanges currently served by Verizon North Inc.)
and Contel of the South, Inc., d/b/a Verizon North)
Systems, CenturyTel of Michigan, Inc.,)
CenturyTel Midwest—Michigan, Inc., CenturyTel)
of Northern Michigan, Inc., CenturyTel of Upper)
Michigan, Inc., and AT&T Michigan, f/k/a SBC)
Michigan.)
_____)

Case No. U-14639

In the matter of the application of)
CLOSECALL AMERICA, INC., for a license to)
provide resold and facilities-based local exchange)
services in the state of Michigan.)
_____)

Case No. U-14937

In the matter of the application of)
VOIP TELECOM, LLC, for a temporary and)
permanent license to provide basic local)
exchange service in the zones and exchanges)
currently served by AT&T Michigan and Verizon)
North Inc. and Contel of the South, Inc., d/b/a)
Verizon North Systems.)
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Case No. U-14967

In the matter of the application of **ZENK**)
GROUP, LTD., d/b/a PLANET ACCESS)
to amend its license to include all zones and)
exchanges served by Verizon North Inc. and)
Contel of the South, Inc., d/b/a Verizon North)
Systems.)
_____)

Case No. U-15023

In the matter of the application of)
TELE-RECONNECT, INC., for a license to)
Provide basic local exchange service throughout)
the state of Michigan.)
_____)

Case No. U-15116

)
 In the matter, on the Commission's own motion,)
 To commence formal basic local exchange)
 service license revocation proceedings against)
**1-800-RECONEX, INC., f/k/a STERLING)
 INTERNATIONAL FUNDING, INC., AIRDIS,)
 LLC, d/b/a AIRDIS TELECOM, AMERICAN)
 FIBER NETWORK, INC., CALL GIANT, INC.,)
 f/k/a BELL CONNECT, INC., CLOSECALL)
 AMERICA, INC., CMC TELECOM, INC.,)
 COMMUNICATION LINES INC., EMPIRE ONE)
 TELECOMMUNICATIONS, INC., GLOBAL)
 TELDATA II, LLC, GVC NETWORKS, LLC,)
 NATIONAL GRID COMMUNICATIONS INC.,)
 NSW TELECOM, INC., PHONECO, L.P.,)
 SOLARITY COMMUNICATIONS LLC,)
 SPECIALIZED SERVICES, INC., d/b/a SSI)
 AFFINITY, TELE-RECONNECT INC.,)
 TROPHY TECHNOLOGIES, INC., d/b/a RURAL)
 COMMUNICATIONS, UNIVERSALTELECOM,)
 INC., VOIP TELECOM, LLC, AND ZENK)
 GROUP, LTD., d/b/a PLANET ACCESS.)
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Case No. U-16895

NOTICE OF PROPOSAL FOR DECISION

The attached Proposal for Decision is being issued and served on all parties of record in the above matter on January 27, 2012.

Exceptions, if any, must be filed with the Michigan Public Service Commission, P.O. Box 30221, 6545 Mercantile Way, Lansing, Michigan 48909, and served on all other parties of record on or before February 10, 2012 or within such further period as may be authorized for filing exceptions. If exceptions are filed, replies thereto may be filed on or before February 21, 2012. **The Commission has selected this case for participation in its Paperless Electronic Filings Program. No paper documents will be required to be filed in this case.**

At the expiration of the period for filing exceptions, an Order of the Commission will be issued in conformity with the attached Proposal for Decision and will become effective unless exceptions are filed seasonably or unless the Proposal for Decision is reviewed by action of the Commission. To be seasonably filed, exceptions must reach the Commission on or before the date they are due.

MICHIGAN ADMINISTRATIVE HEARING
SYSTEM
For the Michigan Public Service Commission

Thomas E. Maier
Administrative Law Judge

January 27, 2012
Lansing, Michigan
drr

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UNIVERSAL TELECOM, INC., for a license to)
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Michigan presently served by Verizon North Inc.,)
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d/b/a Ameritech Michigan, CenturyTel of)
Michigan, Inc., CenturyTel Midwest – Michigan,)
Inc., CenturyTel of Upper Michigan, Inc.,)
CenturyTel of Northern Michigan, Inc., TDS)
Telecom/Island Telephone Company, TDS)
Telecom/Shiawassee Telephone Company, TDS)
Telecom/Chatham Telephone Company, TDS)
Telecom/Wolverine Telephone Company, TDS)
Telecom/Communication Corporation of)
Michigan, and Frontier Communications of)
Michigan, Inc.)
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Case No. U-13468

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TROPHY TECHNOLOGIES, INC., for a license)
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Case No. U-13538

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)
_____)

Case No. U-14364

In the matter of the application of **AIRDIS, LLC,**)
d/b/a AIRDIS TELECOM, for a license to provide)
basic local exchange service in the zones and)
exchanges currently served by Verizon North Inc.)
and Contel of the South, Inc., d/b/a Verizon North)
Systems, CenturyTel of Michigan, Inc.,)
CenturyTel Midwest—Michigan, Inc., CenturyTel)
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Case No. U-14967

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GROUP, LTD., d/b/a PLANET ACCESS)
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1-800-RECONEX, INC., f/k/a STERLING)
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LLC, d/b/a AIRDIS TELECOM, AMERICAN)
FIBER NETWORK, INC., CALL GIANT, INC.,)
f/k/a BELL CONNECT, INC., CLOSECALL)
AMERICA, INC., CMC TELECOM, INC.,)
COMMUNICATION LINES INC., EMPIRE ONE)
TELECOMMUNICATIONS, INC., GLOBAL)
TELDATA II, LLC, GVC NETWORKS, LLC,)
NATIONAL GRID COMMUNICATIONS INC.,)
NSW TELECOM, INC., PHONECO, L.P.,)
SOLARITY COMMUNICATIONS LLC,)
SPECIALIZED SERVICES, INC., d/b/a SSI)
AFFINITY, TELE-RECONNECT INC.,)
TROPHY TECHNOLOGIES, INC., d/b/a RURAL)
COMMUNICATIONS, UNIVERSALTELECOM,)
INC., VOIP TELECOM, LLC, AND ZENK)
GROUP, LTD., d/b/a PLANET ACCESS.)
)

Case No. U-16895

PROPOSAL FOR DECISION

I.

BACKGROUND AND HISTORY OF PROCEEDINGS

On October 4, 2011, the Commission issued an order with captions naming 20 providers that hold licenses to provide basic local exchange service pursuant to the Michigan Telecommunications Act (MTA), 1991 PA 179, as amended, MCL 484.2101 *et seq.* In that order, the Commission stated that each of those providers had been grossly deficient in attending to the statutory and regulatory responsibilities of licensed basic local exchange providers, that each provider made no

response to Commission Staff (Staff), and that Staff had issued each an informal notice of possible license revocation as required by MCL 24.292 and *Rogers v Cosmetology Board*, 68 Mich App 751; 244 NW2d 20 (1976). In the order, which was served on the providers, the Commission directed each provider to appear at a hearing scheduled for November 28, 2011, to consider revocation of its license.

Petitions to Intervene were filed on behalf of CMC Telecom, Inc., and Call Giant, Inc., f/k/a Bell Connect, Inc., on November 4, 2011. On November 21, 2011, Staff filed the Direct Testimony and Exhibits of Julie E. Ginevan, requesting that the licenses of 17 of the 20 providers be revoked, and that, although the license expansion granted to 1-800-Reconnex, Inc., in MPSC Case No. U-12214 was not listed in the case caption, that the revocation proceedings against that provider include this license expansion.

Pursuant to due notice, a hearing was held in this matter on November 28, 2011, before Administrative Law Judge Thomas E. Maier (ALJ). Counsel and the witness for Staff attended the hearing, as did counsel for CMC Telecom, Inc. In the course of that hearing, counsel for Staff stated that Staff wished to withdraw, without prejudice, the complaints against CMC Telecom, Inc., and Call Giant, Inc., f/k/a Bell Connect, Inc., because both providers had filed Petitions to Intervene and advised Staff that they wished to retain their licenses. Both providers had been working with Staff to come into compliance with statutory and regulatory requirements. Counsel for Staff also stated that Staff wished to withdraw, without prejudice, the complaint against Voip Telecom, LLC, because that provider had surrendered its license.

The evidentiary hearing then continued. The Staff presented the testimony of Julie E. Ginevan, Senior Department Analyst in the Licensing and Competitive Issues

Section of the Telecommunications Division, Michigan Public Service Commission. There was no cross examination of Ms. Ginevan, and no other witnesses testified. The resultant record consists of 21 pages of transcript and four exhibits, each of which was received into evidence. Pursuant to the schedule established for this case, Staff filed its Brief on December 2, 2011. There were no reply briefs.

II.

TESTIMONY AND POSITIONS OF THE PARTIES

As noted earlier, Staff was the only party to provide testimony in this proceeding. Ms. Ginevan testified that CMC Telecom, Inc., and Call Giant, Inc., f/k/a Bell Connect, Inc., had filed Petitions to Intervene and advised Staff that they wished to retain their licenses, and both had been working with Staff to come into compliance with statutory and regulatory requirements. 1 Tr. 10-11. She testified that Staff was requesting that these two providers be removed from license revocation consideration at this time, but that Staff was not waiving the right to request license revocation for these two providers in the future if continuing non-compliance remains an issue. 1 Tr. 10.

Ms. Ginevan also testified that Staff recommends that the licenses of the remaining 17 providers at issue here (all those listed except CMC Telecom, Inc., Call Giant, Inc., f/k/a Bell Connect, Inc., and Voip Telecom, LLC) be revoked by the Commission pursuant to Section 601(d) of the MTA. *Id.* She testified that these 17 providers were no longer in compliance with Section 302(1)(a) of the MTA, which provides:

“1) After notice and hearing, the commission shall approve an application for a license if the commission finds both of the following:

(a) The applicant possesses sufficient technical, financial, and managerial resources and abilities to provide basic local exchange service within the geographic area of the license and that the applicant intends to provide service within 1 year from the date the license is granted.” MCL 484.2302(1)(a); *see also* 1 Tr. 10.

Ms. Ginevan testified that these 17 providers were not providing basic local exchange service as required by MTA Section 302(1)(a); they no longer possess sufficient technical, financial, and managerial resources and abilities to provide basic local exchange service within the geographic area of their respective licenses; and that it is no longer in the public interest for these companies to retain their licenses. 1 Tr. 11. She also testified that several of these companies are deficient in their obligations under Section 305b(c) of the MTA to comply with all federal and state requirements for basic local exchange service. 1 Tr. 12. Ms. Ginevan detailed evidence of failed attempts to contact these providers by U.S. and electronic mail and by telephone. 1 Tr. 12-13, 17; *see also* Exhibit S-2. She testified that several of the companies are not in good standing in accordance with state law governing corporations or other applicable entities; several of the companies had never provided regulated services; the 12 companies that had tariffs on file with the Commission have not responded to multiple Staff requests for required information; and those companies with filed tariffs had also failed to file their annual public utility assessment forms per Section 211 of the MTA. 1 Tr. 12-16; *see also* Exhibits S-1 (revised) and S-2. She also detailed additional

failures of these providers to respond to Staff's data requests as required under the MTA or Commission order. *Id.*

Ms. Ginevan testified that each of the 17 providers was sent a letter on July 19, 2011, via certified mail to the last known address of each of the companies. 1 Tr. 16; see *also* Exhibit S-3. Those letters detailed prior unsuccessful attempts to contact the companies and, in some cases, informed the companies of their delinquency in their filings with the Commission and/or with the Bureau of Commercial Services. 1 Tr. 15; see *also* Exhibit S-3. The letters also explained that failure to respond to the letter could result in action to revoke the company's license to provide basic local exchange service. *Id.* Ms. Ginevan testified that each of the 17 providers at issue failed to respond to the July 19, 2011 letter's request that that the company update their entity's status with the Bureau of Commercial Services and provide the delinquent filings requested by Staff. 1 Tr. 15-17; see *also* Exhibit S-2.

Ms. Ginevan concluded by stating that, "[b]ased on the information Staff has compiled, Staff believes these companies no longer possess sufficient technical, financial and managerial resources and abilities to provide basic local exchange service to the geographic area for which they are licensed or do not intend to provide service within 1 year as required by Sec. 302(1)(a) of the MTA and have failed to comply with the requirements of a provider licensed to provide basic local exchange service in this state as required under Sec. 305b(c)." 1 Tr. 17. She also testified that it is no longer in the public interest for these 17 companies to retain their licenses. *Id.* Finally, she testified that even though the license expansion granted to 1-800-Reconnex, Inc., in

MPSC Case No. U-12214 was not listed in the case caption, Staff would like to include this license expansion as part of these revocation proceedings. 1 Tr. 18.

Based on Ms. Ginevan's testimony, Staff took the position that it had established all of the requirements necessary for license revocation and that the licenses of the 17 identified companies should be revoked. Staff also took the position that the entirety of the license of 1-800-Reconnex, Inc., including the expansion granted in MPSC Case No. U-12214, should be revoked. Staff's Brief, p 2. Staff argued that the expansion could not stand on its own if the original license is revoked. *Id.* Staff further asserted that its July 19, 2011 attempted notification of 1-800-Reconnex, Inc. (Exhibit S-4), sufficed to give that company notice that its license was in jeopardy. Staff's Brief, pp 2-3. Staff noted that the letter was returned as undeliverable, and that 1-800-Reconnex, Inc. is no longer authorized to transact business in Michigan. Staff's Brief, p 2. Staff believes that if that company wishes to object to the requested ruling that the amendment be revoked, it will have the opportunity to do so by filing exceptions to this PFD, but as the company has failed to respond to any mailings that the Commission has sent out over the past two years, it is Staff's opinion that the company does not wish to retain its license and that notice was proper. Staff's Brief, p 3.

III.

DISCUSSION AND FINDINGS

Commission Staff has requested that the revocation proceedings against three of the 20 above-named providers be dismissed without prejudice. 1 Tr. 4-5, 10-11. Two of those providers, CMC Telecom, Inc., and Call Giant, Inc., f/k/a Bell Connect, Inc., had

filed Petitions to Intervene in these proceedings and advised Staff that they wished to retain their licenses, and both had been working with Staff to come into compliance with statutory and regulatory requirements. Therefore, the ALJ recommends that the Commission dismiss the revocation proceedings against CMC Telecom, Inc., and Call Giant, Inc., f/k/a Bell Connect, Inc., without prejudice. The third such provider, Voip Telecom, LLC, had surrendered its license. The Commission issued an order rescinding Voip Telecom, LLC's license on December 6, 2011, in MPSC Case No. U-14967. To the extent that any action is required in this case, the ALJ recommends that the revocation proceedings against Voip Telecom, LLC, be dismissed as moot.

Turning to the remaining 17 providers, Section 302 of the MTA provides for the issuance of a license to a telecommunication provider if, after notice and hearing, the Commission finds both of the following:

“(a) The applicant possesses sufficient technical, financial, and managerial resources and abilities to provide basic local exchange service within the geographic area of the license and that the applicant intends to provide service within 1 year from the date the license is granted.

(b) The granting of a license to the applicant would not be contrary to the public interest.” MCL 484.2302(1).

Section 601(d) of the MTA authorizes the Commission to revoke an existing license if it determines, after notice and hearing, that a licensee has violated the MTA. MCL 484.2601(d). Section 92(1) of the Administrative procedures Act, MCL 24.292(1), as well as the Michigan Court of Appeals' ruling in *Rogers v Cosmetology Board*, 68 Mich App 751; 244 NW2d 20 (1976), require that before the commencement of

proceedings for revocation of a license, an agency shall give notice, personally or by mail, to the licensee of facts or conduct which warrant the intended action and an opportunity to show compliance with all lawful requirements of the license.

The uncontroverted evidence presented in this case, through the testimony of Ms. Julie E. Ginevan and Exhibits S-1 (revised) through S-4, demonstrates the following:

1. That on July 19, 2011, the Commission sent certified letters to each of the 17 providers in question, asking them to indicate whether the provider wished to retain its license to provide basic local exchange service in Michigan, and advising each of those providers that if no response was received, the Commission would take the necessary steps to commence the process of revoking that provider's license.

2. Because none of the providers had responded to the July 19, 2011 notices, the Commission issued an order on October 4, 2011, that opened the present proceedings and directed each provider that desired to retain its license to file an intervention in these proceedings by November 4, 2011, and to appear at the hearing in these proceedings held November 28, 2011. None of the 17 providers in question satisfied either of those requirements.

3. Several of the providers in question are not in good standing in accordance with state law governing corporations or other applicable entities.

4. Several of the providers in question have never provided regulated services.

5. The 12 companies that had tariffs on file with the Commission have not responded to multiple Staff requests for required information; and those companies with filed tariffs have also failed to file their annual public utility assessment forms per Section 211 of the MTA.

6. The providers in question have failed to respond to multiple attempts by Staff to contact them or to Staff's data requests as required under the MTA or Commission order.

7. Staff sent the July 19, 2011 notice to 1-800-Reconnex, Inc. (Exhibit S-4), to give that company notice that its license was in jeopardy. The letter was returned as undeliverable, and 1-800-Reconnex, Inc. is no longer authorized to transact business in Michigan.

Based on the foregoing and other record information received in the course of these proceedings through Ms. Ginevan's testimony and exhibits, I find that the Commission has satisfied all of the requirements that licensees be given adequate notice and an opportunity to be heard. I also find that none of the 17 providers in question possesses sufficient technical, financial and managerial resources and abilities to provide basic local exchange service in the geographic areas for which they are currently licensed; that they have failed to meet the requirements of Section 302(1)(a) of the MTA to provide service within 1 year; and that each of the 17 providers in question has failed to comply with the requirements imposed on a provider licensed to provide basic local exchange service in this state under MTA Section 305b(c).

IV.

CONCLUSION

In light of the Staff's request and the fact that the companies had filed interventions in these proceedings and were cooperating with Staff to come into compliance with their statutory and regulatory obligations, the ALJ recommends that the Commission dismiss without prejudice the revocation proceedings against CMC Telecom, Inc., and Call Giant, Inc., f/k/a Bell Connect, Inc.. Further, also in light of Staff's request and the fact that the provider has surrendered its license as evidenced by the Commission's December 6, 2011 order in MPSC Case No. U-14967, to the extent that any action is required in this case, the ALJ recommends that the revocation proceedings against Voip Telecom, LLC, be dismissed as moot.

As to the remaining 17 providers named in these proceedings, in light of the uncontroverted testimony and exhibits provided by Ms. Ginevan, and based on the above-noted findings, the ALJ recommends that the Commission grant Staff's request to immediately revoke each of the licenses to provide basic local exchange service held by the 17 providers in question, including those indicated in the caption above and the expansion of the license granted to 1-800-Reconnex, Inc., in MPSC Case No. U-12214.

In accordance with the Commission's usual practice, each of the providers named herein shall be served by mail with a copy of this PFD and the accompanying Notice that includes the due dates for the filing of any Exceptions to this PFD and any Replies to Exceptions.

MICHIGAN ADMINISTRATIVE
HEARING SYSTEM
For the Michigan Public Service Commission

Thomas E. Maier
Administrative Law Judge

January 27, 2012
Lansing, Michigan
drr